IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIFTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

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WRIT PETITION NO : 11367 of 1995

Between:

Sri Vinayaka Mahila Mandali, Vedurupally, Nathavaram Mandal, Visakhapatnam District, rep. by its President.

..... PETITIONER

AND

1 The Cheif Executive Officer, Zilla Parishad, Visakhapatnam.
2 The Mandal Parishad Development Officer, Mandal Parishad, Nathavaram, Visakhapatnam.
3 Sri Retlamma Abhyudaya Mahila Mandali, Vedurupally, Nathavaram, Visakhapatnam, rep. by its President.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ, order or direction more particularly one in the nature of Writ of Mandamus to declare as illegal and arbitrary transfer of allotment of funds for direction of Mahila Mandal Building in Vedurupally to the 3rd respondent and issue consequential direction to re-allot the funds to the petitioner and permit the petitioner to construct the Mahila Mandal Building as originally allocated.

For the Petitioner: MR. D.V.SITHARAM MURTHY, Advocate

For Respondents 1 and 2: MISS K. JHANSI RANI, STANDING COUNSEL FOR ZILLA PARISHADS AND MANDAL PARISHADS.

For Respondent No.3: MR. P.B.VIJAYA KUMAR, Advocate

The Court made the following:

ORDER:

This writ petition is filed seeking to declare the transfer of funds, which were initially allotted for construction of Mahila Mandali building to the petitioner-Mahila Mandali, to third respondent-Mahila Mandali, as illegal and arbitrary, and consequently to direct re-allotment of the funds to the petitioner-Mahila Mandali.

The petitioner claims to be Mahila Mandali in Vedurupally village, Nathavaram Mandal of Visakhapatnam District, which is a registered body bearing Registration No.427/93. It is stated that in pursuance of the scheme of Government to construct Mahila Mandali Buildings in each Mandal, the Zilla Parishad Visakhapatnam for the year 1994-95 earmarked 5% of its general revenue i.e. Rs.5,99,470/-, for the said scheme. Proposals were sent for allocation of funds for construction of building to the petitioner Mahila Mandali, and in pursuance thereof the cost of construction of the building was initially estimated at Rs.60,000/-, out of which Rs.30,000/- is to be contributed by the Zilla Parishad, Visakhapatnam and the remaining Rs.30,000/- is to be borne by the petitioner Mahila Mandali, the Gram Panchayat, and the Mandal Parishad at the rate of Rs.6,000/-, Rs.9,000/- and Rs.15,000/- respectively, and the petitioner paid their share of Rs.6,000/-. Thereafter, an extent of Ac.0-10 cents of site in survey No.115 of Vedurupally village was allotted to the petitioner for construction of building, but the same was under unauthorized occupation of one Pyla Narayana Murty and after getting him evicted from the site by Revenue officials, proposals were again sent to the District Collector for allotment of the said site to the petitioner, and subsequently the building estimate was revised to Rs.90,000/-, and in those circumstances construction of the building could not be proceeded with. It is stated that the first respondent under political pressure, by proceedings dated 09-05-1995, transferred the amount of Rs.30,000/- which was reserved for the petitioner-Mahila

Mandali, to the third respondent-Mahila Mandali. Questioning the transfer of funds to the third respondent as illegal and arbitrary, the petitioner filed this writ petition.

The first respondent filed counter-affidavit admitting the release of funds by the Zilla Parishad, Visakhapatnam for construction of Mahila Mandali building to petitioner-Mahila Mandali. It is stated that the site allotted to the petiioner-Mahila Mandali for the purpose of construction of Mahila Mandali building is in dispute and possession of the same has not been handed over to the petitioner so far, as reported by the Mandal Development Officer, Nathavaram. Meanwhile, the third respondent-Mahila Mandali came forward with their share of contribution of Rs.6,000/- and also produced gift deed in respect of Ac.0-05 cents of site donated by the villagers in their favour for construction of Mahila Mandali building, and since they fulfilled the conditions under the scheme, the first respondent permitted the Mandal Development Officer, Nathavaram to utilize the Zilla Parishad share of Rs.30,000/- for construction of Mahila Mandali building in Vedurupally village to the third respondent. Thus, the first respondent prays to dismiss the writ petition.

The third respondent also filed counter-affidavit stating that one Chintakayala Jogithalli, the self styled President created the petitioner Mahila Mandali for her own advantage with the help of some political leaders. It is also stated that Ac.0-10 cents of site allotted to the petitioner is in the possession of one Pyla Narayanamurthy, who preferred an appeal in respect thereof before Revenue Divisional Officer and the same is still pending. The third respondent states that inasmuch as they paid their share of contribution and provided a site for construction of building, and the petitioner failed to provide a site and failed to comply with other legal requirements, and since the funds if not utilized in the financial year in which they were allocated would automatically stand lapsed, the first respondent has rightly sanctioned the funds to them for construction of Mahila Mandali building and now the building work is in progress. Thus, the third respondent prays to dismiss the writ petition.

Heard the learned counsel for the petitioner, the learned Standing Counsel for respondents 1 and 2 and the learned counsel for the third respondent.

Admittedly, no interim order was passed at the time of admitting the writ petition on 14-6-1995. The learned counsel on either side submit that inasmuch as the construction of Mahila Mandali building for the third respondent-Mahila Mandali with the funds sanctioned by the first respondent has been completed, no cause survives

requiring any adjudication in the writ petition and the writ petition has become infructuous. However, the learned counsel for the petitioner sought a direction to the second respondent-Mandal Parishad Development Officer, Nathavaram to return the amount of Rs.6,000/- paid by the petitioner towards construction of building for its Mahila Mandali.

Having regard to the facts and circumstances of the case and considering the submissions of the learned counsel on either side, the writ petition is dismissed as having become infructuous. However, the second respondent-Mandal Parishad Development Officer, Nathavaram, Visakhapatnam District is directed to return the amount of Rs.6,000/- paid by the petitioner, if not already returned. No costs.

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N.V. RAMANA, J

Date: 25-10-2004

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To

1 The Cheif Executive Officer, Zilla Parishad,
Visakhapatnam.
2 The Mandal Parishad Development Officer,
Mandal Parishad, Nathavaram, Visakhapatnam.
3 Two CD copies.